

Agricultural Marketing Service, USDA

§ 905.149

thereon; and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 905.146.

(b) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application based upon a determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall expire at the end of the fiscal period.

(c) *Suspension or Denial of Certificate of Privilege.* The committee may investigate the handling of special purpose shipments under Certificates of Privilege to determine whether Special Purpose Shippers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a Special Purpose Shipper or consignee is failing to comply with the requirements and regulations applicable to such certificates, the Certificate of Privilege issued to such Special Purpose Shipper may be suspended or, in the case of an application for the issuance of an initial Certificate of Privilege, may be denied. Such suspension of a certificate shall be for a reasonable period of time as determined by the committee, but in no event shall it extend beyond the end of the current fiscal period. In the case of the denial of an application for the issuance of an initial certificate, such certificate shall be denied until the applicant comes into compliance with the requirements and regulations applicable to such certificates. Prior to suspending or denying an application for a Certificate of Privilege, the committee shall give the shipper or applicant reasonable advance notice in writing of its intention and the facts and reasons therefor, and afford the shipper or applicant an opportunity, either orally or in writing, to present opposing facts and reasons. The shipper or applicant shall be informed of the committee's

determination in writing and in a timely manner.

[43 FR 9456, Mar. 8, 1978, as amended at 59 FR 26929, May 25, 1994]

§ 905.148 Reports of special purpose shipments under certificates of privilege.

(a) Each handler of citrus shipping under Certificates of Privilege shall supply the committee with reports on each shipment as requested by the committee, on forms supplied by the committee, showing the name and address of the shipper or shippers; name and address of the certified organic Florida citrus fruit grower or growers supplying fruit for such shipment; truck or other conveyance identification; the loading point; destination, consignee; the inspection certificate number; and any other information deemed necessary by the committee.

(b) One copy of the report on each shipment shall be forwarded by the shipper to the committee within 10 days after such shipment, and two copies of the report shall accompany each shipment to the receiver. Upon the receipt of each shipment, the receiver shall complete the applicable portion of the form and return one copy to the committee within 10 days and one copy shall be retained by the shipper. Such completion shall contain a certification to the Secretary and the committee that the citrus described shall be distributed in the outlets described. Failure to complete and return such forms will be cause to remove that receiver's name from the committee's list of eligible receivers.

[43 FR 9456, Mar. 8, 1978, as amended at 59 FR 26929, May 25, 1994]

§ 905.149 Procedure for permitting growers to ship tree run citrus fruit.

(a) *Tree run citrus fruit.* Tree run citrus fruit as referenced in this section is defined in the Florida Department of Citrus (FDOC) regulation 20-35.006, which specifies that "Tree run grade is that grade of naturally occurring sound and wholesome citrus fruit which has not been separated either as to grade or size after severance from the tree." Wholesomeness is as defined in FDOC regulation 20-62.002. The tree

run citrus fruit shipped under this provision also must be from the applying grower's own grove.

(b) *Application.* A grower shall apply to ship tree run fruit using a Grower Tree Run Certificate Application, furnished by the committee. Such application shall contain, but not be limited to: the name, address, and phone number of the grower; legal description of the grove(s) from which citrus will be shipped; variety of citrus produced on the identified grove(s); approximate number of boxes produced on the identified grove(s); and a certification to the U.S. Department of Agriculture and to the committee as to the truthfulness of the information shown thereon; and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents.

(c) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Grower Tree Run Certificate. Approval of an application will be based upon a determination as to whether the information contained therein and on whether other information available to the committee supports an application's approval. Approval of an application shall be evidenced by the issuance of a Grower Tree Run Certificate to the applicant. Each certificate shall expire at the end of the fiscal period.

(d) *Suspension or denial of a Grower Tree Run Certificate.* The committee may investigate the handling of tree run shipments under a Grower Tree Run Certificate to determine whether growers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that a grower is failing to comply with the requirements and regulations applicable to such certificates, the Grower Tree Run Certificate issued to such grower may be suspended or, in the case of an application for the issuance of an initial Grower Tree Run Certificate, may be denied. Such suspension of a certificate shall be for a reasonable period of time as determined by the committee, but in no event shall it extend beyond the end of the fiscal period. In the case of the denial of an application for the

issuance of an initial certificate, such certificate shall be denied until the applicant comes into compliance with the requirements and regulations applicable to such certificates. Prior to suspending or denying an application for a Grower Tree Run Certificate, the committee shall give the grower reasonable advance notice in writing of its intention and the facts and reasons therefor, and afford the grower an opportunity, either orally or in writing, to present opposing facts and reasons. The grower shall be informed of the committee's determination in writing and in a timely manner.

(e) To qualify for a Grower Tree Run Certificate, each such grower must notify the committee prior to the first shipment of tree run Florida citrus fruit of the grower's intent to ship such citrus, submit an application on forms supplied by the committee, and agree to other requirements as set forth in this section with respect to such shipments.

(f) The handling of tree run citrus under a Grower Tree Run Certificate shall be exempt from the provisions of §§ 905.52 and 905.53 and the regulations issued thereunder, under the following conditions:

(1) A grower may only ship up to 150 1½ bushel boxes per variety, per shipment.

(2) A grower may only ship up to 3,000 boxes per variety per season.

(3) Each grower shall apply to the Citrus Administrative Committee and receive a Grower Tree Run Certificate prior to shipping their own tree run Florida citrus fruit.

(4) Each grower of citrus shipping under a Grower Tree Run Certificate shall supply the committee with reports on each shipment as requested by the committee, on forms supplied by the committee, providing the following information: The name and address of the grower, along with the grower's Grower Tree Run Certificate number; the legal description of the grove; the variety and amount of citrus shipped; the date the fruit was shipped; and the truck/trailer license number. A copy of the form will be completed for each shipment. One copy of the report will be forwarded by the grower to the committee office within 10 days after such

shipment, and one copy of the report will accompany each shipment and be given to the Road Guard Station.

(5) Each container of tree run fruit shipped under a Grower Tree Run Certificate shall be labeled with or contain the name and address of the grower shipping under the Grower Tree Run Certificate.

[67 FR 62313, Oct. 7, 2002, as amended at 68 FR 52329, Sept. 3, 2003; 69 FR 50269, Aug. 16, 2004]

§ 905.150 Eligibility requirements for public member and alternate member.

(a) The public member shall be neither a producer nor a handler of Florida citrus fruit and shall have no direct financial interest in the production or marketing of citrus fruit (except as a consumer of agricultural products).

(b) The public member should be able to devote sufficient time and express a willingness to attend Committee activities regularly and become familiar with the background and economics of the industry.

(c) The public member must be a resident of the production area.

(d) The public member should be nominated by the Citrus Administrative Committee and should serve a 1-year term which coincides with the term of office of producer and handler members of the Committee.

[43 FR 32397, July 27, 1978]

§ 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) For the purposes of this section, the prior period specified in § 905.52 is hereby established as an average week within the immediately preceding three seasons. Each handler's average week shall be computed by adding the total volume of red seedless grapefruit handled in the immediately preceding three seasons and dividing the total by 99. The average week for handlers with less than three previous seasons of shipments shall be calculated by adding the total volume of shipments for the seasons they did ship red seedless grapefruit, divide by the number of seasons, divide further by 33. If crop conditions limit shipments from any or all

of the immediately preceding three season(s), the committee may use a prior season or seasons for the purposes of calculating an average week. New handlers with no record of shipments could ship size 48 and 56 red seedless grapefruit as a percentage of total shipments equal to the percentage applied to other handlers' average week; once such handlers have recorded shipments, their average week shall be calculated as an average of total shipments for the weeks they have shipped red seedless grapefruit during the current season. When used in the regulation of red seedless grapefruit, the term season means the weeks beginning the third Monday in September and ending the first Sunday in the following May. The term *regulation period* means the 22-week period beginning the third Monday in September of the current season.

(b) When a size limitation restricts the shipment of a portion of sizes 48 and 56 red seedless grapefruit during a particular week as provided in § 905.52, the committee shall compute the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by each handler by multiplying the handler's calculated average week shipments of such grapefruit by the percentage established by regulation for red seedless grapefruit for that week. Such set percentage may vary from week to week but shall not be less than 25 percent in any week.

(c) The committee shall notify each handler of the quantity of size 48 and 56 red seedless grapefruit such handler may handle during a particular week.

(d) During any regulation week for which the Secretary has fixed the percentage of sizes 48 and 56 red seedless grapefruit, any person who has received an allotment may handle, in addition to their total allotment available, an amount of size 48 and 56 red seedless grapefruit up to 10 percent greater than their allotment. The quantity of the overshipment shall be deducted from the handler's allotment for the following week. Overshipments will not be allowed during the last week of regulation. If the handler fails to use his or her entire allotment, the undershipment is not carried forward to the following week. Each handler